

APPEAL NO. 030492  
FILED APRIL 9, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 6, 2003. The hearing officer determined that the appellant (claimant herein) was not entitled to supplemental income benefits (SIBs) for the fifth and sixth compensable quarters. The claimant appeals all adverse determinations concerning entitlement for the fifth and sixth quarters of SIBs. The carrier responds that the claimant agreed at the CCH that she was not entitled to SIBs for the sixth quarter and that the hearing officer's determination that she was not entitled to SIBs for the fifth quarter should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The hearing officer based her determination that the claimant was not entitled to SIBs for the sixth compensable quarter on an agreement made by the parties on the record at the CCH that the claimant was not entitled to these benefits. As the claimant agreed to nonentitlement at the CCH, we will not consider the claimant's assertion on appeal that the hearing officer erred in determining the claimant was not entitled to SIBs for the sixth quarter.

As to the fifth quarter, the claimant contended she was unable to work during a portion of the qualifying period for the fifth quarter and that she made a good faith job search during the remainder of the qualifying period. The hearing officer found that the claimant had an ability to work during the portion of the qualifying period the claimant contended she could not work and also found that the claimant failed to make a good faith effort to seek employment commensurate with her ability to work. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review, we find no basis to reverse the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

The carrier represented at the CCH that the true corporate name of the insurance carrier is **ACE USA/OR** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Terri Kay Oliver  
Appeals Judge